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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,129	12/18/2001	James Ward Girardeau JR.	VIXS 033	5127
34280	7590	02/18/2005	EXAMINER	
TIMOTHY W. MARKISON			BAYARD, EMMANUEL	
VIXS, INC.				
P.O.BOX 160727			ART UNIT	
AUSTIN, TX 78736			PAPER NUMBER	
			2631	

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,129	GIRARDEAU ET AL.	
	Examiner	Art Unit	
	Emmanuel Bayard	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 and 19-28 is/are allowed.
- 6) ☒ Claim(s) 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/18/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Jiang et al U.S. Patent No 6,711,710 B2.

As per claim 17, Jiang et al teaches a wireless communication device capable receiving data using non-standard data rates wireless communication system, the wireless communication device comprises: receiver section operable coupled to convert a radio frequency signal into a digital signal (see figs. 2 and 4 and col.5, lines 65-67 and col.7, lines 6-8); demodulation mapping module operable coupled to demodulate the digital signal to produce demodulated data (see fig.4 elements 401 and 403 combine and col.7, lines 8-12); depuncture module operable coupled to decrease rate of the demodulated data based on a coding rate to produce depunctured data (see fig.4 element 405 and col.7, lines 15-25); decoding module operable coupled decode the depunctured data based on the coding rate to produce decoded data (see fig.4 element 409 and col.7, lines 19-30); and rate determination module operable coupled to

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determine the coding rate (see fig.4 element 407 and col.7, lines 17-40) from at least one of the digital signal and the demodulated data, wherein the coding rate is one of a plurality of standard coding rates or a non-standard coding rate that is selected for a given transmission.

As per claim 18, Jiang et al does teach a processing module; and memory (see figs.6 and 9 elements 601, 907 and col.8, lines 22-28 and col.11, lines 22-30) operable coupled to the processing module, wherein the memory includes operational instructions that cause the processing module function as the demodulation mapping module demodulate the digital signal based on a modulation mode; and function as the rate determination module (see fig.4 element 407 and col.7, lines 17-40) to determined the modulation mode from at least one of the digital signal and the demodulated data, wherein the demodulation mode one a plurality of standard demodulation modes or a non- standard demodulation mode that is selected given transmission.

Allowable Subject Matter

3. Claims 1-16 and 19-28 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: when the data rate of the given data transmission can be adjusted from the standard specified data rate by a non- standard data rate adjustment, adjusting the standard specified data rate by the non-standard data rate adjustment to produce a non-standard data rate of the given data transmission as recited in claims 1,11 and 19.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

De Bart et al U.S. patent No 6,088,828 teaches a transmission system.

Molnar et al U.S. patent No 5,691,992 teaches a punctured coding.

Daribi et al U.S. patent No 6,157,683 teaches a method and system for automatic invariancy.

Morelos-zaragoza et al U.S. patent No 6,101,626 teaches a method for choosing coding schemes.

Trott et al U.S. patent No 6,684,366 B1 teaches a multi-rate codec.

Morelos-zaragoza et al U.S. patent No 6,134,696 teaches encoding and decoding rate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Bayard whose telephone number is 571 272 3016. The examiner can normally be reached on Monday-Friday (7:Am-4:30PM)
Alternate Friday off.

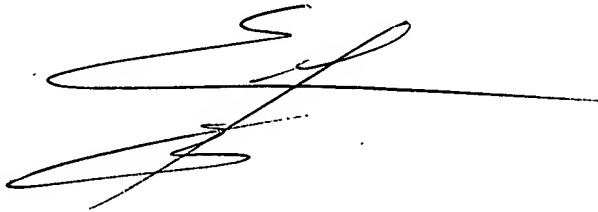
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammed Ghayour can be reached on 571 272 3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Bayard
Primary Examiner
Art Unit 2631

2/16/05

A handwritten signature in black ink, appearing to be 'Emmanuel Bayard', written over a horizontal line.